

The Gazette of India

EXTRAORDINARY

PART II—Section 2

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HOUSE OF THE PEOPLE

The following Bill was introduced in the House of the People on 13th May, 1954:—

BILL No. 23 OF 1954

A Bill further to amend the Coffee Market Expansion Act, 1942.

BE it enacted by Parliament in the Fifth Year of our Republic as follows:—

1. Short title and commencement.—(1) This Act may be called the Coffee Market Expansion (Amendment) Act, 1954.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of long title and preamble, Act VII of 1942.—In the Coffee Market Expansion Act, 1942 (hereinafter referred to as the principal Act),—

(a) in the long title, for the words and figures “to continue the provision made under Ordinance No. XIII of 1940 for assistance to the coffee industry by regulating the export and sale of coffee and by other means,” the words “to provide for the development under Central control of the coffee industry” shall be substituted; and

(b) in the preamble, for the words “to continue the provision made under the Coffee Market Expansion Ordinance, 1940, for assistance to the coffee industry by regulating the export and sale of coffee and by other means,” the words “to provide for the development under Central control of the coffee industry” shall be substituted.

3. Amendment of section 1, Act VII of 1942.—In sub-section (1) of section 1 of the principal Act, for the words “Coffee Market Expansion Act”, the words “Coffee Act” shall be substituted.

4. Substitution of new section for section 2 in Act VII of 1942.—For section 2 of the principal Act, the following section shall be substituted, namely:—

"2. Declaration as to expediency of Union control.—It is hereby declared that it is expedient in the public interest that the Union should take under its control the coffee industry."

5. Amendment of section 3, Act VII of 1942.—In section 3 of the principal Act,—

(i) in clause (a), the word 'Indian' shall be omitted;

(ii) after clause (a), the following clause shall be inserted, namely:—

"(aa) 'Chairman' means the Chairman of the Board;

(iii) for clause (n), the following clause shall be substituted, namely:—

"(n) 'year' means the period of twelve months beginning with the first day of August and ending with the thirty-first day of July next following."

6. Amendment of section 4, Act VII of 1942.—In section 4 of the principal Act,—

(i) in sub-section (1), for the words 'Indian Coffee Board' the words 'Coffee Board' shall be substituted;

(ii) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) The Board shall consist of —

(i) a Chairman to be appointed by the Central Government;

(ii) one person to represent the State of Coorg, to be nominated by the Chief Commissioner of that State;

(iii) one person to represent the Government of Mysore, to be nominated by that Government;

(iv) one person to represent the Government of Madras, to be nominated by that Government;

(v) one person to represent the Government of Travancore-Cochin, to be nominated by that Government;

(vi) four persons to represent the coffee growing industry in Coorg, to be nominated by the Chief Commissioner of Coorg;

(vii) four persons to represent the coffee growing industry in Mysore, to be nominated by the Government of Mysore;

(viii) four persons to represent the coffee growing industry in Madras, to be nominated by the Government of Madras;

(ix) four persons to represent coffee trade interests, to be nominated by the Central Government;

(x) three persons to represent labour, to be nominated by the Central Government;

(xi) two persons to represent the interests of consumers, to be nominated by the Central Government;

(xii) two persons to represent such other interests as in the opinion of the Central Government ought to be represented, to be nominated by the Central Government.

(2A) Any officer of the Central Government when deputed by that Government in this behalf shall have the right to attend meetings of the Board and take part in the proceedings thereof but shall not be entitled to vote."

7. Amendment of section 5, Act VII of 1942.—In section 5 of the principal Act, the word "Indian" shall be omitted.

8. Amendment of section 7, Act VII of 1942.—In section 7 of the principal Act, sub-section (1) shall be omitted.

9. Substitution of new sections for sections 8 and 9 in Act VII of 1942.—For sections 8 and 9 of the principal Act, the following sections shall be substituted, namely:—

"8. Salary and allowances of Chairman.—The Chairman shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.

8A. Vice-Chairman.—The Board shall elect from amongst its members a Vice-Chairman who shall exercise such of the powers and perform such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

9. Chief Coffee Marketing Officer, Secretary and other staff.—(1) The Central Government shall appoint an officer to be called the Chief Coffee Marketing Officer and a Secretary to the Board and may appoint a Deputy Secretary to the Board and such number of Marketing Officers as may be necessary, to exercise such powers and to perform such duties under the direction of the Board as may be prescribed.

(2) The officers appointed under this section shall be entitled to such salaries and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government."

10. Amendment of section 11, Act VII of 1942.—In section 11 of the principal Act, for the words 'at the rate of one rupee per hundred-weight or at such lower rate as the Central Government may on the recommendation of the Board, by notification in the Official Gazette provide' the words 'at such rate not exceeding six rupees per hundred-weight as may be fixed by the Central Government by notification in the Official Gazette' shall be substituted.

11. Amendment of section 12, Act VII of 1942.—In section 12 of the principal Act,—

(i) for the words 'one rupee' the words 'six rupees' shall be substituted;

(ii) the words 'on the recommendation of the Board' shall be omitted.

12. Amendment of section 13, Act VII of 1942.—In section 13 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The proceeds of the duty of customs and of the duty of excise and of any fees levied under this Act, (all of which shall form part of the Consolidated Fund of India) reduced by the cost of collection as determined by the Central Government, shall, if Parliament by appropriation made by law in this behalf so provides, be paid to the Board for being utilised for the purposes of this Act.”;

(ii) sub-section (2) shall be omitted.

13. Amendment of section 14, Act VII of 1942.—In section 14 of the principal Act, in sub-section (4), for the words 'Chief Coffee Marketing Officer', the word 'Chairman' shall be substituted.

14. Amendment of section 16, Act VII of 1942.—In sub-section (1) of section 16 of the principal Act, the words “after consultation with the Board” shall be omitted.

15. Amendment of section 20, Act VII of 1942.—In section 20 of the principal Act,—

(i) for the first proviso, the following proviso shall be substituted, namely:—

“Provided that nothing herein contained shall apply to coffee—

(i) shipped as stores on board any vessel or aircraft in such quantity as the Collector considers reasonable, having regard to the number of the crew and passengers and the length of the voyage or journey, as the case may be, on which the vessel or aircraft is about to proceed, or

(ii) carried as personal luggage of a passenger, not exceeding two pounds avoirdupois, or

(iii) exported by post or by air in packages containing not more than ten pounds avoirdupois, or

(iv) exported by sea as *bona fide* samples in packages containing not more than one pound avoirdupois.”;

(ii) after the first proviso as so amended, the following proviso shall be inserted, namely:—

“Provided further that the Central Government may, by order in writing, specify the quantity of coffee which shall be permitted for export during any year and where any such order is made, no coffee shall be exported from India in excess of the said quantity.”.

16. Amendment of section 25, Act VII of 1942.—In section 25 of the principal Act,—

(i) to sub-section (1), the following provisos shall be added, namely:—

“Provided that where no internal sale quotas have been allotted to estates, the Chairman may allow the owner of any estate to retain with himself for purposes of consumption by his family and for purposes of seed, such quantity of coffee as the Chairman may think reasonable:

Provided further that where the Central Government is satisfied that it is not practicable for any class of owners producing coffee in any specified area to comply with the provisions of this sub-section on account of the small quantity of coffee produced by them or on account of their estates being situated in a remote locality, the Central Government may by notification in the Official Gazette exempt such class of owners from the provisions of this sub-section.”;

(ii) in sub-section (4), the words ‘with the concurrence of the Chief Coffee Marketing Officer’ shall be omitted.

17. Substitution of new section for section 31 in Act VII of 1942.—For section 31 of the principal Act, the following section shall be substituted, namely:—

“31. *General fund.*—(1) To the General fund shall be credited—

(a) all amounts paid to the Board by the Central Government under sub-section (1) of section 13; and

(b) any sums transferred to the General fund under the proviso to sub-section (2) of section 32.

(2) The General fund shall be applied—

(a) to meet the expenses of the Board;

(b) to meet the cost of such measures as the Board may consider advisable to undertake for promoting agricultural and technological research in the interest of the coffee industry in India; and

(c) for making such grants to coffee estates or for meeting the cost of such other assistance to coffee estates as the Board may think necessary for the development of such estates.”

18. Amendment of section 32, Act VII of 1942.—In section 32 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

“(d) the cost of such measures as the Board considers advisable to undertake for promoting the sale and increasing the consumption in India and elsewhere of coffee produced in India.”

19. Insertion of new section 39A in Act VII of 1942.—After section 39 of the principal Act, the following section shall be inserted, namely:—

“39A. *Offences by companies.*—(1) If the person committing any offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the

company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

• (a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.’

20. Amendment of section 44, Act VII of 1942.—In section 44 of the principal Act, for the words from ‘Any member of the Board’ to ‘may enter’, the words ‘Any person authorised in this behalf by the Central Government or by the Board or any member of the Board so authorised by the Chairman in writing or any officer of the Board, may enter at all reasonable times’ shall be substituted.

21. Amendment of section 48, Act VII of 1942.—In section 48 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Without prejudice to the generality of the foregoing power, rules may be made providing for all or any of the following matters:—

(i) the principles regulating the nomination of members of the Board;

(ii) the term of office of members of the Board, the circumstances in which, and the authority by which, members may be removed and the filling of casual vacancies in the Board;

(iii) the procedure to be followed at meetings of the Board and at committees thereof for the conduct of business and the number of members which shall form a quorum at a meeting;

(iv) the maintenance by the Board of records of business transacted by the Board and the submission of copies thereof to the Central Government;

(v) the holding of a minimum number of meetings of the Board every year;

(vi) the powers of the Board, its Chairman and committees thereof with respect to the incurring of expenditure;

(vii) the conditions subject to which the Board may incur expenditure outside India;

(viii) the preparation of budget estimates of receipts and expenditure of the Board and the authority by which the estimates are to be sanctioned;

(ix) the maintenance of the accounts of income and expenditure of the Board and the audit of such accounts;

(x) the deposit of the funds of the Board in banks and the investment of such funds;

(xi) the re-appropriation of the estimated savings from any budget head to any other budget head;

(xii) the conditions subject to which the Board may borrow funds;

(xiii) the conditions subject to which and the manner in which contracts may be entered into by or on behalf of the Board;

(xiv) the delegation to the committee or Chairman or Vice-Chairman or members or officers of the Board of any of the powers and duties of the Board under this Act;

(xv) the staff which may be employed by the Board and the pay and allowances and leave and other conditions of service of officers other than those appointed by the Central Government and other employees of the Board;

(xvi) the travelling and other allowances of members of the Board and of committees thereof;

(xvii) the maintenance of the registers and other records of the Board and its various committees;

(xviii) the manner in which the internal sale quota of coffee estates shall be determined;

(xix) the manner in which the Board shall exercise its powers of buying and selling coffee in the Indian Market;

(xx) the appointment by the Board of agents;

(xxi) the conditions to be fulfilled by a curing establishment before a licence to operate as such can be issued;

(xxii) the form of, and the particulars to be contained in, any returns or reports to be made to the Board under this Act;

(xxiii) the form of, manner of application for, fees payable for, procedure in granting and conditions governing, the licences and permits to be issued by the Board;

(xxiv) the collection of any information or statistics in respect of coffee or any product of coffee;

(xxv) any other matter (other than any matter specified in section 15) which is to be or may be prescribed under this Act.”.

22. Validation of certain acts and indemnity in respect thereof.—

All acts of executive authority, proceedings and sentences which have been done, taken or passed with respect to, or on account of, coffee during the period commencing on the 26th day of January, 1950, and ending with the date of commencement of this Act, by the Government or by any officer of the Government or by any other authority in the belief or purported belief that the acts, proceedings or sentences were being done, taken or passed under the principal Act shall be as valid and operative as if they had been done, taken or passed in accordance with law, and no suit or other legal proceeding shall be maintained or continued against any authority whatsoever on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with law.

STATEMENT OF OBJECTS AND REASONS

The Coffee Market Expansion Act, 1942, was passed to meet the situation which confronted the coffee industry on the outbreak of World War II, when most of our European markets for coffee were lost. This resulted in a surplus of coffee in the country and a slump in prices. The situation today is entirely different. The internal consumption of coffee has increased considerably and it is of utmost importance to step up our production in order to meet the increasing demand of the home market, keep prices at reasonable levels and to meet our export requirements. The problem now is therefore one of the development of the industry rather than of marketing.

2. The Indian Coffee Board also needs to be reconstituted to ensure better co-ordination between the Board and the Central and State Governments and a more equitable representation of all the interests concerned by altering the present method of according individual representation, by name, to various associations on the Board. The nature of the future work of the Board would entail the appointment of a whole-time Chairman, and power is therefore taken for Government to appoint the Chairman.

3. There are many small-sized coffee estates whose economic position being weak need some special help, for which additional funds are required. The present duty of customs and excise is only Re. 1 per cwt. It is proposed that the Central Government should have powers to levy a higher rate of duty subject to a maximum of Rs. 6 per cwt.

4. The proposed Bill has been designed to achieve these objects.

5. Opportunity has also been taken—

(a) to substitute a new section for section 2 of the principal Act in order to bring its language in conformity with the language of Entry 52 of List I in the Seventh Schedule to the Constitution, and

(b) to indemnify all authorities in respect of all action taken between the commencement of the Constitution and the commencement of this Act, as a doubt may be raised as to whether, in the absence of a declaration made by Parliament by law, the declaration contained in section 2 was effective during that period.

T. T. KRISHNAMACHARI.

NEW DELHI;

The 8th May, 1954.

FINANCIAL MEMORANDUM

Sections 11 and 12 of the Coffee Market Expansion Act, 1942, provide for levy of—

(a) a duty of customs on all coffee produced in India and exported from India at the rate of Re. 1 per cwt. or at such lower rate as the Central Government may, on the recommendation of the Coffee Board by a notification in the Official Gazette provide,

(b) a duty of excise at such rate not exceeding Re. 1 per cwt. as may be fixed by Central Government on the recommendation of the Board by a notification in the Official Gazette, on all coffee sold in the country.

2. The Bill seeks to provide for raising these duties of customs and excise subject to a maximum of Rs. 6 per cwt

3. The maximum duty of excise and customs may not be levied in the beginning. On an estimated production of 25,000 tons of coffee, a duty of excise and customs at the rate of Re. 1 is expected to yield Rs. 5,00,000.

4. The average annual expenditure on the Board and on measures taken for promoting agricultural and technological research is about Rs. 4 lakhs. The balance of the proceeds realised by levy of a duty at a higher rate will be earmarked for granting assistance to coffee estates.

DRAFT MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill amplifies the rule-making power conferred upon the Central Government by section 48 of the principal Act. Sub-section (2) of section 48 has now been brought in line with the corresponding provisions of sub-section (2) of section 49 of the Tea Act, 1953, which was recently passed by Parliament. Section 9 of the principal Act which empowers the Board to make by-laws on certain matters is being omitted. It has, accordingly, become necessary, to provide for these matters in section 48. The rule-making power is generally of a routine and normal character. The necessity for making rules on certain important matters is, however, explained below.

48(2)(i). Principles regulating the nomination of members.—The intention is that the nominating authorities should consult the representative organisations of interests concerned before nominating members. It is not feasible to state in the Act what associations are to be consulted and what should be the manner of consultation.

48(2)(ix) Deposit of the funds of the Board in Banks and investment of such funds.—The provisions of section 20 of the Indian Trusts Act, 1882 which relate to investment of trust funds if applied to this case would be unduly restrictive. Some more liberal provisions are required and consistent with the safety of the funds of the Board, it is proposed to make such provisions in the Rules.

48(2)(xi) Conditions subject to which the Board may borrow funds.—The conditions subject to which the Board may borrow funds cannot be visualised for all times. It is therefore expedient to specify such conditions in the Rules so that they may be capable of being easily modified.

M. N. KAUL.
Secretary.